

A Guide to Permitted and Prohibited Activities for Lenders and Guarantors



This guide is intended to serve as an outline of activities that lenders and guarantors are permitted and prohibited to engage in under the prohibited inducement regulations published by the U.S. Department of Education (ED) on November 1, 2007. The effective date of changes made by these regulations is July 1, 2008.

A Guide to Permitted and Prohibited Activities¹

Activities Permitted by both Lenders and Guarantors

Conferences, Meeting, and Training:

- **Meals, Refreshments, and Receptions.** Providing meals, refreshments, and receptions that are reasonable in cost and scheduled in conjunction with training, meeting, or conference events as long as meals, refreshments, or receptions are open to all training, meeting, or conference attendees.

Assistance Comparable to Direct Loan Program. Providing assistance to schools comparable to the kinds of assistance provided by ED under Direct Loan program, as identified by ED in public announcements such as Federal Register notices.

Student Aid and Financial Literacy-Related Outreach. Providing and participating in student aid and financial literacy-related outreach activities (excluding in-person, school required initial or exit counseling) provided:

- Names of lenders or guarantors that developed and paid for materials used in activities are provided to participants; and
- Lenders and guarantors do not promote their student loan or other products. Guarantors may promote benefits provided under other federal and state programs they administer.

Telephone Numbers. Providing toll-free telephone numbers for use by schools and others to obtain information about FFELP loans.

Data Transmission Services. Providing free data transmission service for use by schools to electronically submit applicant loan processing information or student status confirmation data.

Loan Fee Reductions:

- **Origination Fee.** Reducing federal origination fees below statutory maximums. (This item was not addressed for guarantors.)
- **Federal Default Fee.** Paying federal default fees on behalf of borrowers.

Interest Rate Reductions. Reducing interest rates below statutory maximums. (This item was not addressed for guarantors.)

Repayment Incentive Programs. Providing benefits to borrowers under repayment incentive programs that require, at minimum, one or more scheduled payments to receive or retain benefits. (This item was not addressed for guarantors.)

Loan Forgiveness Programs: Providing benefits to borrowers under loan forgiveness programs for public service or other targeted purposes approved by ED, provided such benefits are not marketed to secure loan applications or guarantees.

Generalized Marketing or Advertising. Providing items of nominal value to schools, school-affiliated organizations, or borrowers as long as such items are offered as a form of generalized marketing/advertising or to create good will.

Other ED-Approved Services. Providing other services identified and approved by ED through public announcement such as Federal Register notice.

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Activities Prohibited by both Lender and Guarantor

Activities in General. Directly or indirectly offering points, premiums payments or other inducements to prospective borrowers, schools, school-affiliated organizations, student representatives, or other parties to secure FFELP loans or loan applications² except where such activities are denoted as “Permitted” for lenders or guarantors.

Activities with Prospective Borrowers. Making payments or offering other benefits³, including prizes or additional financial aid, to prospective borrowers in exchange for FFELP loans or loan applications.

Activities with Schools or School-Affiliated Organizations. Making payments or providing other benefits to school or school-affiliated organizations⁴ in exchange for FFELP loan application referrals, specified volumes or dollar amounts of loans made, or placement on preferred lender lists (for guarantors, this includes placement of lenders using guarantors on preferred lender lists).

Activities with Students Employed as Sales Representatives. Making payments or providing benefits to students at schools who act as representatives to secure FFELP loan applications from individual, prospective borrowers. (This item was not addressed for guarantors.)

Additional Costs or Denial of Benefits. Assessing additional cost or denying benefits otherwise provided to schools participating in guarantor programs based on failure to: agree to participate in guarantors’ programs; provide specified volumes of loan applications or loan volume to guarantors; or place lender using guarantors on preferred lender lists. (This item is not applicable to lenders.)

Conferences, Meeting, and Training:

- **Registration, Transportation, and Lodging.** Paying conference or training registration, transportation, and lodging costs for employees of schools or school-affiliated organizations (see guarantor provided training).

Entertainment. Paying expenses for private hospitality suites, tickets to shows or sporting events, meals, alcoholic beverages, and lodging, rental, transportation, and other gratuities related to lender – or guarantor – sponsored activities for employees of schools or school-affiliated organizations.

Philanthropic Activities. Providing scholarships, grants, restricted gifts, or financial contributions in exchange for FFELP loan applications or application referrals; specified volumes or dollar amounts of FFELP loans made; or placement on preferred lender lists (for guarantors, this includes placement of lenders using guarantors on preferred lender lists).

Staffing Services. Providing staffing services to schools as third-party servicers or otherwise on more than a short-term, emergency basis⁵ and which are non-recurring to assist schools with financial aid-related functions.

Entrance and Exit Counseling. Providing support of or participating in in-person, school required initial or exit counseling.

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Activities Permitted by Guarantors but Prohibited by Lenders

Advisory Boards:

- **Expenses.** For lenders, paying cost incurred by employees of schools or school-affiliated organizations to serve on an advisory board or committee. For guarantors, paying travel and lodging costs that are reasonable as to cost, location, and duration to facilitate participation of school employees in activities of guarantors' standing, official advisory committees.
- **Service.** Soliciting employees of school or school-affiliated organizations to serve on advisory boards or committees. For guarantors, such committees must be standing, official committees.

Guarantor-Provided Training:

- **Meals and Refreshments.** Providing meals and refreshments that are reasonable in cost and provided in connection with guarantor-provided training of program participants and K-12 and postsecondary school personnel, and with workshops and forums customarily used by guarantors to fulfill their Higher Education Act responsibilities. (This item is not applicable for lenders)
- **Transportation and Lodging.** Paying travel and lodging costs that are reasonable as to cost, location, and duration to facilitate attendance by employees of schools at guarantor training or service facility tours they would otherwise not be able to undertake.

Governing Board Expenses. Paying travel and lodging expenses that are reasonable as to cost, location, and duration to facilitate school employee participation in guarantor governing boards.

Activities Prohibited between Guarantors and Lenders

Application Fees. Offering to pay lenders not holding loans insured by guarantor fees for applications forwarded for guarantee.

Equipment and Supplies. Providing equipment and supplies to lenders at or below market cost or rental.

Lender Functions. Performing functions normally performed by lenders without appropriate compensation.

Lender Functions. Compensating lender representatives to secure FFELP applications for guarantee.

End Notes

¹ For the specific regulations to this guideline, refer to Federal Register / Vol. 72, No. 211, November 1, 2007, Sections 682.200 and 682.401.

² Loan applications include Free Application for Federal Student Aid (FAFSA), FFELP master promissory notes, and FFELP consolidation loan application and promissory notes.

³ Other benefits include, but are not limited to, preferential rates for or access to lender's other financial products, computer hardware, or non-loan processing or non-financial aid related computer software at below market rental or purchase cost. For lenders, other benefits include printing and distributing college catalogs and other materials at reduced or no cost. For guarantors, other benefits include printing and distributing college catalogs and other non-counseling or non-student financial aid related materials.

⁴ School-affiliated organizations are organizations directly or indirectly related to a school. These include, but are not limited to: alumni organizations, foundations, athletic organizations, and social, academic, and professional organizations.

⁵ For purpose of staffing services to schools, "emergency basis" means state – or federally – declared natural disaster and other localized disasters and emergencies identified by ED.